

**HENRY COUNTY, OHIO  
SPECIAL PURPOSE FLOOD DAMAGE PREVENTION REGULATIONS**

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## **SECTION 1.0**

### **STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

#### **1.1 STATUTORY AUTHORIZATION**

These flood regulations shall be known and may be cited to as the “Henry County, Ohio Special Purpose Flood Damage Prevention Regulations,” except as referred to herein, where it shall be known as “these Regulations.” These Regulations are adopted pursuant to authorization contained in Sections 307.37 and 307.85 of the Ohio Revised Code. The adoption of these Regulations is necessary for participation in the National Flood Insurance Program. Therefore, the Board of County Commissioners of Henry County does resolve as follows:

#### **1.2 FINDINGS OF FACT**

- A. The flood hazard areas of Henry County are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the cumulative effect of developments in areas of special flood hazards resulting in increases in flood heights and velocities and, when inadequately anchored, such developments damage structures in other areas. Structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss.

#### **1.3 STATEMENT OF PURPOSE**

It is the purpose of these Regulations to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and

generally undertaken at the expense of the general public;

- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- G. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- H. Minimize the impact of development on adjacent properties within and near flood prone areas;
- I. Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- J. Minimize the impact of development on the natural, beneficial values of the floodplain;
- K. Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- L. Meet community participation requirements of the Natural Flood Insurance Program.

#### **1.4 METHODS OF REDUCING FLOOD LOSSES**

In order to accomplish its purposes, these Regulations include methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

- D. Controlling, filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

## SECTION 2.0

### DEFINITIONS

Unless specifically defined below, words or phrases used in these Regulations shall be interpreted so as to give them the meaning they have in common usage and to give these Regulations the most reasonable application.

“**Accessory structure**” means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

“**Appeal**” means a request for review of the local administrator’s interpretation of any provision of these Regulations or a request for a variance.

“**Base flood**” means the flood having a one (1) percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 100-year flood.

“**Base (100-Year) Flood Elevation**” means the water surface elevation of the base flood in relation to a specific datum, usually the National geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).

“**Basement**” means any area of the building having its floor subgrade (below ground level) on all sides.

“**Development**” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

“**Enclosure Below the Lowest Floor**” see “Lowest Floor.”

“**Federal Emergency Management Agency (FEMA)**” means the agency with the overall responsibility for administering the National Flood Insurance Program.

“**Fill**” means a deposit of earth material placed by artificial means.

“**Flood**” or “**Flooding**” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or,
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

**“Flood Insurance Rate Map (FIRM)”** means an official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard.

**“Flood Insurance Study”** means the official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries, and the water surface elevations of the base flood.

**“Flood Protection Elevation”** is the base flood elevation plus 1 foot of freeboard. In areas where no base flood elevation exists from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.

**“Floodway”** A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydrologic and hydraulic engineering analysis such as the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

**“Freeboard”** is the factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and icejams, and the hydrologic effect of urbanization in a watershed.

**“Historic structure”** means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on the State of Ohio’s inventory of historic places maintained by the Ohio Historic Preservation Office; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Ohio Historic Preservation Office.

**“Hydrologic and hydraulic engineering analysis”** An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

**“Lowest floor”** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building=s lowest floor; provided that such enclosure is built in accordance with the applicable design requirements specified in these Regulations for enclosures below the lowest floor.

**“Manufactured home”** means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle.” For the purpose of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.

**“Manufactured home park”** means a parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots. This definition shall exclude any manufactured home park as defined in Section 3733.01 of the Ohio Revised Code, for which the Ohio Public Health Council has exclusive rule making power. As specified in Ohio Administrative Code 3701-27-01, any tract of land upon which two or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park. A tract of land that is subdivided and to individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though two or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

**“National Flood Insurance Program (NFIP)”** is the Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

**“New construction”** means structures for which the “start of construction” commenced on or after the initial effective date of Henry County=s Flood Insurance Rate Map, November 25, 1977, and includes any subsequent improvements to such structures.

**“Recreational Vehicle”** means a vehicle which is:



- A. Built on a single chassis;
- B. Is 400 square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**“Special Flood Hazard Area”** also known as “Areas of Special Flood Hazard” means the land in the floodplain subject to one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

**“Start of construction”** means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

**“Structure”** means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

**“Substantial damage”** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood related damage sustained by a structure on 2 separate occasions during a 10 year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

**“Substantial improvement”** means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of

the structure before the “start of construction” of the improvement. When the combined total of all previous improvements or repairs made during the life of the structure equals or exceeds 50 percent of a structure’s market value, that structure is considered a substantial improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
- B. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure;” or
- C. Any improvement to a structure which is considered new construction.

**“Variance”** means a grant of relief from the standards of these Regulations consistent with the variance conditions herein.

**“Violation”** means the failure of a structure or other development to be fully compliant with these Regulations.

## **SECTION 3.0**

### **GENERAL PROVISIONS**

#### **3.1 LANDS TO WHICH THESE REGULATIONS APPLY**

These Regulations shall apply to all areas of special flood hazard within the jurisdiction of Henry County as identified by Section 3.2, including any additional areas of special flood hazard annexed by Henry County.

#### **3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

For the purpose of these regulations, the following studies and/or maps are adopted:

- A. Flood Insurance Rate Map Henry County (Unincorporated Areas) and Flood Insurance Study Henry County (Unincorporated Areas) both effective December 5, 1995.
- B. Other studies and/or maps which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
- C. Any hydrologic and hydraulic engineering analysis authorized by a Professional Engineer in the State of Ohio that has been approved by Henry County as required by Section 5.1D Subdivisions and Large Scale Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be part of these regulations. Such maps and/or studies are on file at the Henry County Planning Commission, 104 East Washington Street, Suite 301, Napoleon, Ohio 43545.

#### **3.3 COMPLIANCE**

Unless specifically exempted from filing for a development permit as stated in Section 4.5, EXEMPTION FROM FILING A DEVELOPMENT PERMIT, no structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these Regulations and all other applicable regulations which apply to uses within the jurisdiction of these Regulations.

#### **3.4 ABROGATION AND GREATER RESTRICTIONS**

These Regulations are not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where these Regulations and other regulations, easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **3.5 INTERPRETATION**

In the interpretation and application of these Regulations, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and,
- C. Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of these Regulations may be in conflict with a state law, such state law shall take precedence over these Regulations.

### **3.6 SEVERABILITY**

Should any section or provision of these Regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of these Regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

### **3.7 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by these Regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These Regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These Regulations shall not create liability on the part of Henry County, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on these Regulations or any administrative decision lawfully made thereunder.

### **3.8 NOTICE OF VIOLATION**

Whenever the Flood Damage Prevention Regulation Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:

- A. Be put in writing on an appropriate form;
- B. Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action which, if taken, will effect compliance with the provisions of these regulations;
- C. Specify a reasonable time for performance;
- D. Advise the owner, operator, or occupant of the right to appeal;
- E. Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

### **3.9 VIOLATIONS AND PENALTIES**

Violation of the provisions of these Regulations or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates these Regulations or fails to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall upon conviction thereof be fined not more than \$300.00 and in addition, shall pay all related legal costs and expenses. Each day such violation(s) continues shall be considered a separate offense. Nothing herein contained shall prevent Henry County from taking such other lawful action as is necessary to prevent or remedy any violations. Henry County shall prosecute any violation of these Regulations in accordance with the penalties stated herein.

## SECTION 4.0

### ADMINISTRATION

#### 4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A development permit shall be obtained from the Flood Damage Prevention Regulations Administrator before construction or development begins within, or in contact with, any area of special flood hazard established in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD. Application for a development permit shall be made on forms furnished by the Flood Damage Prevention Regulations Administrator and may include, but not limited to: site specific plans drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing the following information is also required (where applicable):

- A. Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures located in areas of special flood hazard where base flood elevation data are utilized from any source;
- B. Elevation in relation to mean sea level to which any proposed nonresidential structure will be floodproofed, in accordance with Section 5.2B, NONRESIDENTIAL CONSTRUCTION, where base flood elevation data are utilized from any source;
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2B, NONRESIDENTIAL CONSTRUCTION, where base flood elevation data are utilized from any source;
- D. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished and maintenance assurances as required in Section 4.7(D)(3);
- E. Certification by a registered professional engineer, architect, or surveyor of the structure's as-built lowest floor or floodproofed elevation.
- F. Volumetric calculations demonstrating an equal volume of soil excavation is being provided for the volume of fill placed as required by Section 5.1F, FILLING OF ALL SPECIAL FLOOD HAZARD AREAS.

#### 4.2 PERMIT APPROVAL

Within thirty (30) days after receipt of a completed application, the Flood Damage Prevention Regulation Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

**4.3 POST-CONSTRUCTION CERTIFICATION REQUIRED**

As-built certifications are required after a floodplain development permit has been issued for new and substantially improved residential structures, or non-residential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.

**4.4 REVOKING A FLOODPLAIN DEVELOPMENT PERMIT**

A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section 6.0, APPEALS AND VARIANCES, of these regulations.

**4.5 EXEMPTION FROM FILING A DEVELOPMENT PERMIT**

An application for a development permit shall not be required for the following activities:

- A. Maintenance work such as roofing, painting and basement sealing; or small nonstructural development activities (except for filling and grading) valued at less than \$5,000.00;
- B. Any proposed action exempt from filing a floodplain development permit is also exempt from the standards of these regulations.

**4.6 DESIGNATION OF THE FLOOD DAMAGE PREVENTION REGULATIONS ADMINISTRATOR**

The Henry County Planning Commission is hereby appointed to administer and implement these Regulations by granting or denying development permit applications in accordance with its provisions.

**4.7 DUTIES AND RESPONSIBILITIES OF THE FLOOD DAMAGE PREVENTION**

## **REGULATIONS ADMINISTRATOR**

The duties and responsibilities of the Flood Damage Prevention Regulations Administrator shall include, but are not limited to:

### **A. PERMIT REVIEW**

1. Review all development permits applications to determine that the permit requirements of these Regulations have been satisfied.
2. Review all development permits applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the Department of the Army under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.
3. Review all development permits applications to determine if the proposed development is located within a designated floodway. Floodways are delineated in the Flood Insurance Rate Map (FIRM) of the Flood Insurance Study. Floodways may also be delineated in other sources of flood information. If the proposed development is located within a designated floodway, assure that the encroachment provision of Section 5.3A, AREAS WITH FLOODWAYS is met.
4. Inspect all development projects before, during, and after construction to ensure compliance with all provisions of these Regulations.

### **B. USE OF OTHER BASE FLOOD ELEVATION AND FLOODWAY DATA**

Areas of special flood hazard where base flood elevation data have not been provided by the Federal Emergency Management Agency in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, are designated as Zone A on the County=s Flood Insurance Rate Map (FIRM). Within these areas, the Flood Damage Prevention Regulations Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data obtained under Section 5.2F, SUBDIVISIONS AND LARGE DEVELOPMENTS, in order to administer Section 5.2A, RESIDENTIAL CONSTRUCTION; 5.2B, NON-RESIDENTIAL CONSTRUCTION; and where floodway data are available, administer Section 5.3, FLOODWAYS.

### **C. INFORMATION TO BE OBTAINED AND MAINTAINED**



Where base flood elevation data are utilized within areas of special flood hazard on the County's Flood Insurance Rate Map (FIRM), regardless of the source of such data, the Flood Damage Prevention Regulations Administrator shall:

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and whether or not such structures contain an enclosure below the lowest floor;
2. For all new or substantially-improved floodproofed nonresidential structures:
  - i. Verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and,
  - ii. Maintain the floodproofing certifications required in Section 4.1C.
3. Maintain for public inspectional records pertaining to the provisions of this resolution, including base flood elevation data, Flood Insurance Rate Maps, variance documentation, Letters of Map Change, and as-built elevations.

#### D. ALTERATION OF WATERCOURSES

1. Notify adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency. A watercourse is considered to be altered if any change occurs within its banks.
2. Maintain engineering documentation required in Section 4.1D that the flood carrying capacity of the altered or relocated portion of said watercourse will not be diminished.
3. Require that necessary maintenance will be provided for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished.

#### E. INTERPRETATION OF FLOOD BOUNDARIES

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Where a map boundary and field elevations disagree, the elevations delineated in the flood elevation profile from the Flood Insurance Study shall prevail. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as

provided in Section 6.0, APPEALS AND VARIANCES.

F. ALTERATION OF COMMUNITY BOUNDARIES

Upon occurrence, notify FEMA in writing whenever the boundaries of Henry County have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the County's Flood Insurance Rate Map (FIRM) accurately represents Henry County's boundaries, include within such notification a copy of a map of Henry County suitable for reproduction, clearly delineating the new corporate limits or the new area for which the County has assumed or relinquished floodplain management regulatory authority.

G. SUBSTANTIAL DAMAGE DETERMINATION

Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

## SECTION 5.0

### PROVISIONS FOR FLOOD HAZARD REDUCTION

#### 5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required: The following standards apply in all areas of special flood hazard including those where base flood elevation data have been provided. Where a structure, including its foundation members, is elevated on fill to or above the level of the flood protection elevation, the requirements for Section 5.1A, ANCHORING, and Section 5.1B, CONSTRUCTION MATERIALS AND METHODS, are satisfied.

##### A. ANCHORING

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. All manufactured homes, not otherwise regulated by the Ohio Revised Code pertaining to manufactured home parks, shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

##### B. CONSTRUCTION MATERIALS AND METHODS

1. All new construction and substantial improvements shall be constructed with materials resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

##### C. UTILITIES

The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code, the Ohio EPA, or the Henry County Department of Health.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system, above the level of the flood protection elevation.
2. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. SUBDIVISION PROPOSALS

1. All subdivision proposals, including manufactured home subdivisions, shall be consistent with the need to minimize flood damage;
2. All subdivision proposals, including manufactured home subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
3. All subdivision proposals, including manufactured home subdivisions, shall have adequate drainage provided to reduce exposure to flood damage;
4. All subdivision proposals, including manufactured home subdivisions, shall meet the specific standards of Section 5.2F, SUBDIVISIONS AND LARGE DEVELOPMENTS; and,
5. All subdivision proposals, including manufactured home subdivisions, that are subject to the Henry County, Ohio, Subdivision Regulations And Design Standards, shall depict to scale (where applicable) the level of the flood protection elevation line on the plat being submitted for review and/or approval. For those areas identified as Zone A on the County's Flood Insurance Rate Map (FIRM) for which no base flood elevation is provided, the level of the flood protection elevation line shall be depicted to scale based upon a "depth of flow" analysis, as provided in Section 5.1E, STANDARDS IN AREAS OF SPECIAL FLOOD HAZARD WITHOUT BASE FLOOD ELEVATION DATA.

E. STANDARDS IN AREAS OF SPECIAL FLOOD HAZARD WITHOUT BASE

## FLOOD ELEVATION DATA

In all areas of special flood hazard identified as Zone A on the County's Flood Insurance Rate Map (FIRM) where base flood elevation data are not available from any source, the following provisions apply:

1. "Depth of flow" analysis shall be utilized to aid in the determination of the base flood elevation. Depth of flow analysis accounts for a watercourse's drainage area, the channel cross section and grade, and historical flood benchmark information (if available), and calculates how high the base flood's water elevation would rise above the channel banks. The Henry County Engineer's Office shall provide technical assistance as necessary.
2. For major subdivision (plat is recorded) proposals a registered surveyor or engineer shall convert the flood height into the level of the flood protection elevation (from surrounding benchmarks) that will be expressed in feet above mean sea level. In the case of minor subdivision (only deed is recorded) proposals, it will be permitted to depict the level of the flood protection elevation line as calculated to scale without conversion to feet above mean sea level.

## F. FILLING OF ALL SPECIAL FLOOD HAZARD AREAS

The filling of all areas of special flood hazard, outside of floodways, is permitted subject to Section 4.1, ESTABLISHMENT OF DEVELOPMENT PERMIT.

If over 1,000 cubic yards of material is placed below the base flood elevation, the volume of fill placed below the base flood elevation shall be compensated by equal volume of soil excavated in the same flood hazard area.

If the elevation of a structure is proposed on fill, then the following provisions shall also be required:

1. The fill material shall consist of earth, rock, asphalt, concrete or other suitable material capable of supporting a structure.
2. The fill pad (or area affected) shall meet acceptable compaction and grading standards.
3. The fill pad shall be seeded or reinforced with adequate rock slope protection, where necessary, in order to reduce erosion.

## G. SOIL EROSION REQUIREMENTS

When a proposed development area consists of 1 or more acres of earth-disturbing activities (e.g., filling, grading, excavating), the developer and/or owner of record shall develop and submit to the Ohio Environmental Protection Agency for review and approval, a soil erosion and sedimentation control plan. Such a plan shall contain sufficient information, drawings, and notes to describe how soil erosion and off-site sedimentation will be kept to a minimum, both during and after construction. A copy of such plan and documentation of approval must be submitted prior to obtaining a flood hazard development permit.

When a proposed development area consists of less than 1 acre of earth-disturbing activities (e.g., filling, grading, excavating), the developer and/or owner of record may be required to submit a soil erosion and sedimentation control plan to the Henry County Planning Commission for review and approval, where appropriate.

**5.2 SPECIFIC STANDARDS**

In all areas of special flood hazard where base flood elevation data have been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD; Section 4.7B, USE OF OTHER BASE FLOOD ELEVATION AND FLOODWAY DATA; or Section 5.2F, SUBDIVISIONS AND LARGE DEVELOPMENTS, the following additional provisions are required:

- A. RESIDENTIAL CONSTRUCTION
  - 1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the level of the flood protection elevation.
  - 2. In AO zones new construction and substantial improvements shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number on the County’s Flood Insurance Rate Map (FIRM), or at least 2 feet if no depth number is specified, and adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
  - 3. Each new residential site may be required to have direct access to a walkway, driveway, or roadway whose surface elevation is not less than the flood protection elevation, and such escape route shall lead directly out of the floodplain area.
  
- B. NONRESIDENTIAL CONSTRUCTION
  - 1. New construction and substantial improvement of any commercial, industrial

or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall:

- i. Be floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation. In order to be eligible for lower flood insurance rates, the structure should be floodproofed at least one (1) foot above the base flood elevation;
  - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
  - iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the standards of this subsection. Such certification shall be provided to the official as set forth in Section 4.1C, ESTABLISHMENT OF DEVELOPMENT PERMIT.
2. In AO zones new construction and substantial improvements shall either have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number on the County's Flood Insurance Rate Map (FIRM) (at least 2 feet if no depth number is specified); or be floodproofed to that level consistent with the floodproofing standards of Section 5.2B(1), and adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

#### C. ACCESSORY STRUCTURES

1. A relief to the elevation or dry floodproofing standards may be granted for accessory structures (e.g., sheds, detached garages) containing 576 square feet or less in gross floor area. Such structures must meet the encroachment provisions of Section 5.3A, FLOODWAYS, and the following additional standards:
  - i. They shall not be used for human habitation;
  - ii. They shall be constructed of flood resistant materials;
  - iii. They shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;
  - iv. They shall be firmly anchored to prevent flotation;

- v. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and,
- vi. They shall meet the opening requirements of Section 5.2E, ENCLOSURES BELOW THE LOWEST FLOOR.

D. MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards shall apply to all new and substantially improved manufactured homes not subject to the manufactured home park requirements of Section 3733.01, Ohio Revised Code:

- 1. Manufactured homes shall be anchored in accordance with Section 5.1A(2).
- 2. Manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the level of the flood protection elevation.

These standards shall also apply to all recreational vehicles that are either (i) located on sites for 180 days or more, or (ii) are not fully licensed and ready for highway use.

E. ENCLOSURES BELOW THE LOWEST FLOOR

All new and substantially improved residential and nonresidential non-basement structures which are elevated to the level of the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters, shall be certified by a registered professional engineer or architect. The certification shall include the supporting structure's design, construction methods, and materials will withstand hydrostatic and hydrodynamic forces, including the effects of buoyancy.

Fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must shall meet or exceed the following criteria:

- 1. A minimum of 2 openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
- 2. The bottom of all openings shall be no higher than one (1) foot above grade.



Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**F. SUBDIVISIONS AND LARGE DEVELOPMENTS**

In all areas of special flood hazard where base flood elevation data have not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.7B, USE OF OTHER BASE FLOOD ELEVATION AND FLOODWAY DATA, the following standards apply to all subdivision proposals, including manufactured home subdivisions, and other proposed developments containing at least 50 lots or 5 acres (whichever is less):

1. The applicant shall provide base flood elevation data performed in accordance with standard engineering practices;
2. If Section 5.2F(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.1, GENERAL STANDARDS, and Section 5.2, SPECIFIC STANDARDS.

**5.3 FLOODWAYS**

**A. AREA WITH FLOODWAYS**

The Flood Insurance Study referenced in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD identifies a segment within areas of special flood hazard known as a floodway. Floodways may also be delineated in other sources of flood information as specified in Section 4.7B, USE OF OTHER BASE FLOOD ELEVATION AND FLOODWAY DATA. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and cause erosion. The following provisions apply within all delineated floodway areas:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a hydrologic and hydraulic analysis performed in accordance with standard engineering practices demonstrates that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If Section 5.3A(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.2, SPECIFIC STANDARDS.

3. Any encroachment within the floodway that would result in an increase in base flood elevations can only be granted upon the prior approval by the Federal Emergency Management Agency. Such requests must be submitted by the Flood Damage Prevention Regulations Administrator to the Federal Emergency Management Agency and must meet the requirements of the National Flood Insurance Program. Certain floodway activities in Ohio have been identified in FEMA policy guidance as low or no impact and do not require an engineering analysis. The administrator may issue a permit for these activities on a case-by-case basis subject to all other applicable regulations. Any floodway activities identified in “NO IMPACT: FLOODWAY DEVELOPMENT IN OHIO NATIONAL FLOOD INSURANCE PROGRAM GUIDANCE” dated October 15, 1993 and permitted without an engineering analysis shall include with the permit, corresponding documentation on file.

**B. AREAS WITHOUT FLOODWAYS**

In all areas of special flood hazard where the Flood Insurance Study provides base flood elevation data as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, but no floodways have been designated, the following provisions apply:

1. New construction, substantial improvements, or other development (including fill) shall only be permitted if it is demonstrated that the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than 1 (one) foot at any point.
2. If Section 5.3B(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.

## SECTION 6.0

### APPEALS AND VARIANCES

#### 6.1 APPEALS BOARD

- A. An Appeals Board, hereafter referred to as the “Board,” is hereby established for hearing and deciding appeals from determinations made by the Flood Damage Prevention Regulations Administrator and granting variances from the floodplain management requirements of these Regulations. The Board shall consist of 3 members to be appointed by the Board of County Commissioners. The members shall serve 2 year terms after which time they shall be reappointed or replaced by the Board of County Commissioners. Vacancies shall be filled for the unexpired term of any member whose position becomes vacant.
- B. Meetings of the Board shall be held on an as-needed basis. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings reflecting the vote of each member upon each question and shall keep records of all official actions. The records shall be open for public review.

#### 6.2 APPEALS

Any person affected by any notice and order, or other official action of the Flood Damage Prevention Regulation Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within fourteen (14) days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Flood Damage Prevention Regulations Administrator’s decision. Upon receipt of an appeal, the Flood Damage Prevention Regulation Administrator shall transmit said notice and all pertinent information on which the Flood Damage Prevention Regulation Administrator’s decision was made to the Appeals Board.

Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

#### 6.3 VARIANCES

Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of

these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

A. APPLICATION FOR A VARIANCE

1. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Flood Damage Prevention Regulation Administrator, who upon receipt of the variance request shall transmit it to the Appeals Board.
2. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.
3. All applications for a variance shall be accompanied by a variance application fee set in the schedule of fees adopted by Henry County.

B. NOTICE FOR PUBLIC HEARING

The Appeals Board shall schedule and hold a public hearing within thirty (30) days after the receipt of an application for a variance from the Flood Damage Prevention Regulation Administrator. Prior to the hearing, a notice of such hearing shall be given in one (1) or more newspapers of general circulation in the community at least ten (10) days before the date of the hearing.

C. PUBLIC HEARING

In deliberating a variance request, the Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of these Regulations, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

6. The necessity to the facility of a waterfront location, where applicable;
  7. The compatibility of the proposed use with existing and anticipated development;
  8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- D. Upon consideration of the factors of Section 6.3C and the purposes of these Regulations, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of these Regulations.
- E. The Flood Damage Prevention Regulations Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

#### **6.4 CONDITIONS FOR VARIANCES**

- A. Variances may only be issued where due to physical characteristics of the property compliance with the requirements of these Regulations creates an exceptional hardship. Increased cost or inconvenience of meeting the requirements of these Regulations do not constitute an exceptional hardship.
- B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the level of flood

protection elevation, providing items in Section 6.3C have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- E. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Variances shall only be issued upon:
  - 1. A showing of good and sufficient cause;
  - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - 3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these Regulations, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 6.3C, or conflict with existing local laws or ordinances; and,
  - 4. A determination that the structure or other development is protected by methods to minimize flood damages.
- G. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the level of the flood protection elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- H. Those aggrieved by the decision of the Board may appeal such decision to the Henry County Court of Common Pleas as provided in Chapter 2506 of the Ohio Revised Code.

**SECTION 7.0**

**ADOPTION**

This Resolution shall take effect on the thirty-first day following the date of its adoption. Resolution 109-08-E adopted on November 2, 1995 is hereby repealed.

Adopted by the Board on this 23<sup>rd</sup> day of March, 2006.

Roll Call Vote:

_____	YEA
_____	YEA
_____	YEA

Attest: \_\_\_\_\_ Clerk

**CERTIFICATION OF PUBLIC NOTICES**

In accordance with Ohio Revised Code, Section 307.37 and 307.39, public hearings were held on March 20, 2006 and March 23, 2006 at regular meetings of the Board of Henry County Commissioners. Notice of these hearings was published once a week for two weeks immediately preceding the hearing in the *Northwest Signal* on March 9, 2006 and March 16, 2006. A notice of adoption and availability was published within ten days after adoption in the *Northwest Signal* on March 30, 2006.

CERTIFIED BY: \_\_\_\_\_

DATE: \_\_\_\_\_



# **HENRY COUNTY, OHIO**

## **SPECIAL PURPOSE FLOOD DAMAGE PREVENTION REGULATIONS**

**Prepared By:**

**Henry County Planning Commission**

**Adopted:**

**April 6, 1987**

**Amended:**

**November 20, 1989**

**January 3, 1994**

**November 2, 1995**

**March 23, 2006**

**Effective:**

**April 23, 2006**